

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PUBLIC SERVICE COMMISSION)	
versus)	
BRIARWOOD VILLAGE MOBILE)	CASE NO. 8848
HOME PARK)	

O R D E R

The Commission received a letter on April 12, 1983, from Mrs. Florance G. Tarrence, a resident of the Briarwood Village Mobile Home Park ("Briarwood") of Zoneton, Kentucky, in which she complained about the electric rates and service furnished by Briarwood and requested assistance from the Commission in resolving the dispute. An investigation by the Commission staff indicated that Briarwood purchases electric service from Salt River Rural Electric Cooperative Corporation ("Salt River") through several master meters and distributes the service to its tenants through sub-meters. The Commission requested additional information from Briarwood and Salt River and this was received on April 22 and May 6, 1983, respectively. The responses from Briarwood and Salt River failed to resolve the dispute and the Commission, by Order dated June 7, 1983, ordered Briarwood to appear at the Commission's offices in Frankfort on July 5, 1983, to show cause, if any it could, why it should not be declared a public utility. Salt River and Mrs. Tarrence were

also served notice of the hearing and requested to appear. The Commission, by Order dated June 29, 1983, rescheduled the hearing from July 5 to August 16, 1983, at the request of Mr. Donald C. Brewer, manager of Briarwood. The Commission, by Order dated August 17, 1983, rescheduled the hearing to September 6, 1983, in response to Mr. Brewer's request.

The hearing was held as scheduled on September 6 and Mrs. Tarrence and Mr. Hazelwood, Manager of Salt River, appeared and gave testimony. Neither Mr. Brewer nor any other representative of Briarwood appeared. The Commission issued a subpoena to Mr. Brewer on September 7, 1983, and also set the matter for another hearing on September 28, 1983.

The hearing was held as scheduled on September 28 and Mr. Brewer appeared and gave testimony. During the cross-examination, Mr. Brewer stated that the parent company of Briarwood, Fidelity Management Corporation, is presently operating under Chapter 11 of the federal bankruptcy code. After the hearing, additional written information was filed substantiating that Briarwood's parent company was, in fact, operating under the jurisdiction of the federal bankruptcy court.

The Commission, having considered the complaint and all evidence of record and being advised, is of the opinion and finds that:

The Public Service Commission of Kentucky has no power to exercise its jurisdiction over a utility, or an entity


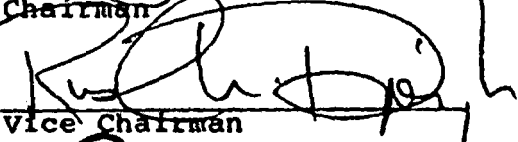

that would be declared a utility under state law, whenever such utility or entity is under the jurisdiction of the federal bankruptcy court.^{1/} However, at such time as the bankruptcy court relinquishes its jurisdiction in this matter, the Commission will reinstate this case on its docket and issue a final Order herein.

IT IS THEREFORE ORDERED that this proceeding be and it hereby is dismissed without prejudice.

IT IS FURTHER ORDERED that Briarwood shall notify this Commission at such time as the federal bankruptcy court relinquishes jurisdiction over its parent, Fidelity Management Corporation.

Done at Frankfort, Kentucky, this 28th day of February, 1984.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman

Commissioner

ATTEST:

Secretary

^{1/} Price v. Williamson, 305 S.W.2d 276 (Ky. 1957).